

a first member [section] with at least a portion adapted to pass through the tissues, or tissue and graft [be removably joined to a tissue and/or graft piercing implement]; [and] a second member [section] adjacent to said first [section] member; and a third member adjacent to said second member [and adapted to be releasably gripped by a staple applying instrument], said second [first] and third members [second sections] capable of moving from a first orientation, where portions of said members [first and second sections] are spaced apart sufficiently to receive the tissues, or tissue and graft[,] therebetween, to a second orientation[,] where said members [first and second sections] lie in contact with the tissues, or tissue and graft.

22

23 27 (Amended) A surgical staple as recited in claim 26, [further comprising a third section adjacent to said second section,] wherein said first member is [third section] capable of being bent with respect to said second [section] member and said third member has a recess adapted to receive at least a portion of said first member.

28 (Amended) A surgical staple as recited in claim 26, further comprising a piercing implement removably joined to said first member [section].

29 31. (Amended) A surgical staple system for fastening tissues, or tissue and graft, together, comprising:

a staple including at least a first section adjacent to a second section, said first and second sections capable of moving from a first orientation, where said first and second sections are spaced apart sufficiently to receive the tissues, or tissue and graft, therebetween, to a second orientation, where said first and second sections lie in contact with the tissues, or tissue and graft; and

a single needle capable of aligning and skewering the tissues, or tissue and graft, said needle being [removably] attached to one of said first or second sections of said staple.

36. (Twice Amended) A surgical fastener system, comprising:

a staple including at least first and second joined sections;

a single needle affixed adjacent to an end of one section of said at least first and second joined sections; and

an instrument capable of manipulating said needle in a minimally invasive procedure such that said needle skewers a first tissue or graft, aligns said first tissue or graft to a desired position with respect to a second tissue or graft, and skewers said second tissue or graft, and said instrument capable of folding said at least first and second joined sections with respect to each other to secure said first tissue or graft to said second tissue or graft between said at least first and second joined sections of the staple.

~~67.~~ (New) A surgical fastener as recited in claim 26 wherein said first member includes a piercing end.

~~40~~ 68. (New) A surgical fastener as recited in claim ~~67~~ wherein said first member defines a hole providing passage for at least a portion of said first member therethrough.

~~41~~ 69. (New) A surgical staple system as recited in claim ~~31~~ ~~26~~ wherein said needle is removably attached to one of said first or second sections of said staple.

~~42~~ 70. (New) A surgical staple system as recited in claim ~~31~~ ~~26~~ wherein said needle is fixedly attached to one of said first or second section of said staple.

~~43~~ 71. (New) A surgical staple system as recited in claim ~~70~~ ~~26~~ wherein one of said first or second sections defines a hole providing passage for at least a portion of said needle therethrough.

~~44~~ 72. (New) A surgical staple system as recited in claim ~~31~~ ~~26~~ wherein said needle is integral with one of said first or second sections of said staple.

~~45~~ 73. (New) A surgical staple system as recited in claim ~~72~~ ~~44~~ wherein one of said first or second sections defines a hole providing passage for at least a portion of said needle therethrough.

~~46~~ 74. (New) A surgical fastener made by skewering tissue or tissues and graft by a piercing element attached to a first section, and bending said first section and a second section into opposing orientation.